

WEDNESDAY, MAY 12, 2004

House Meets At...	Last Vote Predicted At...
10:00 a.m.: Legislative Business Unlimited "One Minutes"	6:00 – 7:00 p.m.

FLOOR SCHEDULE AND BILL SUMMARY

H.Res. ____ - Rule providing for consideration of H.R. 4279, H.R. 4280, and H.R. 4281. The Rules Committee has reported one Rule for the consideration of three separate bills: H.R. 4279 (to amend the Internal Revenue Code of 1986 to provide for the disposition of unused health benefits in cafeteria plans and flexible spending arrangements); H.R. 4280 (The HEALTH Act of 2004 - medical malpractice rerun); and H.R. 4281 (The Small Business Health Fairness Act of 2004 - AHPs). The Rule provides for consideration of **H.R. 4279 under a modified closed rule** with one hour of general debate; provides one amendment in the nature of a substitute to be offered by Rep. Rangel or his designee; and provides one motion to recommit H.R.4279 with or without instructions. Section 2 of the Rule provides for consideration of **H.R. 4280 under a closed rule with no substitute allowed** and one hour of general debate; and one motion to recommit. Section 3 of the Rule provides for consideration of **H.R. 4281 under a modified closed rule** with one hour of general debate; provides one amendment in the nature of a substitute to be offered by Rep. Kind or his designee; and provides one motion to recommit H.R. 4281 with or without instructions. Under the Rule, the three bills will be considered separately and then joined together after they are each voted on separately by the House.

Democrats are urged to VOTE NO on the Previous Question on the Rule in order to allow separate consideration and votes of prescription drug re-importation legislation and legislation to provide prescription drug negotiating authority for the Secretary of Health and Human Services.

H.Res. ____ - Rule providing for consideration of H.R. 4275 - To amend the Internal Revenue Code of 1986 to permanently extend the 10-percent individual income tax rate bracket (Rep. Sessions / Rules Committee). The Rules Committee has recommended a modified closed rule with one general debate that provides for consideration of one amendment in the nature of a substitute debatable for one hour to be offered by Rep. Rangel or his designee; and provides one motion to recommit with or without instructions.

H.R. 4279 - To amend the Internal Revenue Code of 1986 to provide for the disposition of unused health benefits in cafeteria plans and flexible spending arrangements (Rep. McCrery - Ways & Means) (Subject to a Rule). This bill would allow up to \$500 of unused benefits in an individual's flexible spending account (FSA) to be carried over to the individual's FSA for the next plan year or transferred to the individual's Health Savings Account --- under current law, unused amounts in an FSA at the end of the year are forfeited by the employee. This bill was not considered by the Ways and Means Committee before going to the floor. The Joint Tax Committee estimates that H.R. 4279 would cost approximately \$8.4 billion over 10 years and it is not paid for.

- **Rangel Amendment in the Nature of a Substitute (1 hour).** The substitute would allow up to \$500 of unused benefits in the individual's FSA to be carried over to the individual's FSA account for the next plan year. The substitute would not allow the transfer of unused FSA dollars to an individual's HSA. Democrats offset the cost of this bill by closing tax shelter loopholes that have been supported by House Democrats as offsets in other substitutes and have been approved in the Senate on a bipartisan basis.

H.R. 4280 - Medical Malpractice Rerun (Rep. Greenwood - Judiciary / Energy & Commerce) (Subject to a Rule). For the second time this Congress, House Republicans are bringing to the floor legislation to limit medical malpractice awards, H.R. 4280. This bill is identical to H.R. 5, the bill passed by the House in the first session of the 108th Congress 229-196 (186 Democrats voted No on final passage – Roll Call 64). Rather than taking immediate, effective action to provide health care to the 43 million uninsured Americans, Republicans will once again consider legislation that would limit damage awards to patients injured by medical malpractice.

- **Republicans do nothing to directly limit frivolous lawsuits.** Republicans claim H.R.4280 would reduce insurance costs for doctors by discouraging frivolous lawsuits, which they blame for driving up insurance premiums and reducing access to health care for patients, but their bill completely ignores the rate-setting process followed by the insurance industry.
- **Republicans restrict the rights of doctors by protecting HMOs.** Republicans broadly define "medical malpractice action" to protect HMOs, insurance companies, nursing homes and drug and device manufacturers from a broad range of liabilities, including suits by physicians against those companies.

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- **Republicans limit awards for meritorious claims.** Republicans cap non-economic awards for pain and suffering at \$250,000, and punitive damages at \$250,000 or twice economic damages, whichever is greater (awards for economic losses that could include lost current and future wages would not be limited).
- **Republicans impose hurdles on aggrieved patients.** Individuals would be required to file health care lawsuits no later than three years after the date of the injury or one year after discovering the alleged malpractice, whichever occurs first, but in no event can it be filed later than three years after an injury manifests itself. In addition, Republicans limit attorney contingency fees, which would potentially force injured persons, faced with medical bills and lost wages, to finance lawsuits they otherwise cannot afford --- especially if their injury has disabled them from working.

Democrats are urged to VOTE NO on the GOP Medical Malpractice Bill.

Postponed Suspension Votes (5 bills):

- 1) **H.Res. 608** - Expressing the sense of the House of Representatives that the Department of Defense should rectify deficiencies in the military postal system to ensure that members of the Armed Forces stationed overseas are able to receive and send mail in a timely manner as well as receive and send election ballots in time to be counted in the 2004 elections (*Rep. Forbes - Armed Services*)
- 2) **H.Con.Res. 352** - Recognizing the contributions of people of Indian origin to the United States and the benefits of working together with India towards promoting peace, prosperity, and freedom among all countries of the world (*Rep. Millender-McDonald - International Relations*)
- 3) **H.Con.Res. 378** - Calling on the Government of the Socialist Republic of Vietnam to immediately and unconditionally release Father Thaddeus Nguyen Van Ly (*Rep. Smith {NJ} - International Relations*)
- 4) **H.J.Res. 91** - Recognizing the 60th anniversary of the Servicemen's Readjustment Act of 1944 (*Rep. Michaud - Veterans' Affairs*)
- 5) **H.Con.Res. 409** - Recognizing with humble gratitude the more than 16,000,000 veterans who served in the United States Armed Forces during World War II and the Americans who supported the war effort on the home front and celebrating the completion of the National World War II Memorial on the National Mall in the District of Columbia (*Rep. Moran {KS} - Veterans' Affairs*)

Pomeroy Motion to Instruct Conferees on S.Con.Res 95 – Budget Resolution for FY05.

This motion instructs conferees to recede to the Senate bipartisan provisions that would extend "pay-as-you-go" budget enforcement to both mandatory spending and tax cuts.

George Miller Motion to go to Conference on H.R. 2660 - Labor-HHS Appropriations

Act for FY04. Although the FY04 omnibus appropriations bill included the FY04 Labor-HHS Appropriations bill, technically, that bill is still in conference and further motions to instruct are in order. Therefore, Democrats will instruct conferees to keep the Senate language to prohibit the use of funds to issue or enforce a regulation that would take overtime pay away from any employee who, under current regulations, is entitled to overtime pay. This language seeks to block regulations proposed by the Department of Labor that would make it easier for employers to reclassify workers as "white collar" employees who would be ineligible for overtime compensation.

TOMORROW'S OUTLOOK

The GOP Leadership has announced the following schedule: On Thursday, the House will meet at 10:00 a.m. to consider: **H.R. 4281** - To amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees (*Rep. Johnson {TX} - Education & the Workforce*) (*Subject to a Rule*); and **H.R. 4275** - To amend the Internal Revenue Code of 1986 to permanently extend the 10-percent individual income tax rate bracket (*Rep. Sessions - Ways & Means*) (*Subject to a Rule*).

Daily Quote...

"I'm trying to absorb all the information, but it's ridiculous. Not just ridiculous, it's scary. If there was a single card and it was administered by Medicare, and it got the cost of drugs down - wonderful, marvelous. But with these cards, the only thing we know is that we'll have to pay money to other people to administer what we can get and can't get."

- Florence Daniels, 85, in a story in *The New York Times* this morning regarding the new prescription drug discount card